

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR CLINTON COUNTY)

Case No. 12S00-1107-MS-397

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Clinton Circuit and Superior Courts request the approval of amended local rules: for caseload allocation in accordance with Ind. Administrative Rule 1(E), appointment of special judges in civil and criminal cases in accordance with Ind. Trial Rule 79 and Ind. Criminal Rule 2.2, and regulation of court reporter services in accordance with Ind. Administrative Rule 15. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Clinton Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR12-CR2.2-Rule 01, Rule 02, and Rule 03; LR12-TR79-Rule 03 and Rule 04; and LRLR12-AR15-Rule 07, comply with the requirements of Ind. Administrative Rule 1(E), Ind. Trial Rule 79, Ind. Criminal Rule 2.2 and Ind. Administrative Rule 15, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Clinton County Local Rules, LR12-CR2.2-Rule 01, Rule 02, and Rule 03; LR12-TR79-Rule 03 and Rule 04; and LRLR12-AR15-Rule 07, set forth as an attachment to this Order, are approved effective July 1, 2011, except that LR12-AR15-Rule 07 shall not be effective until January 1, 2012. In addition, the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Justin Hunter, Clinton Superior Court, 320 Courthouse Square, Frankfort, IN 46041-1963; the Hon. Linley E. Pearson, Clinton Circuit Court, 355 Courthouse Square, Frankfort, IN 46041-1964; to the Clerk of the Clinton Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Clinton Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 1st day of July, 2011.

Rt Shepard

Randall T. Shepard
Chief Justice of Indiana

LR12 - CR2.2-Rule 01

FILING CRIMINAL CASES

1.10 As required by Criminal Rule 2.2 and subject to approval by the Indiana Supreme Court, Clinton Circuit Court and Clinton Superior Court adopt the following Local Rule by which Felony and Misdemeanor cases are assigned to each Court:

1.20 General Provisions. Except as provided at LR12-CR2.2-Rule 1.30, the first six hundred (600) misdemeanor cases filed each year shall be assigned to Superior Court. Thereafter, the remaining misdemeanor cases filed shall be assigned to Circuit Court. Except as provided in LR12-CR2.2-Rule 1.30, all criminal cases involving felonies or murder shall be assigned to a court on a monthly rotating basis according to the month in which the felony occurred. If the crime is alleged to have first occurred in an odd numbered month, the case shall be assigned to the Circuit Court. If the crime is alleged to have first occurred in an even numbered month, the case shall be assigned to Superior Court.

1.30 Exceptions:

- a. Cases involving crimes at Title 9 (traffic offenses) of the Indiana Code (I.C.) shall be assigned to Superior Court.
- b. Cases involving crimes at I.C. 35-42-4 (sex related crimes) shall be assigned to Circuit Court.
- c. Cases involving crimes at I.C. 35-43 (offenses against property) shall be assigned to Circuit Court.
- d. Cases involving I.C. 35-46-1-15.1 (Invasion of Privacy) shall be assigned to the Court that issued the Order of protection if such Order was issued by a Court in Clinton County.

1.40 Application of Assignment Rules. Where multiple offenses are filed, the most serious offense shall control the Court assignment. Where multiple offenses are filed, the date of the earliest offense shall control the Court assignment. Should the month of the offense be unknown, the case shall be assigned according to year of offense, odd-numbered cases to Circuit Court and even-numbered cases to Superior Court. Where the foregoing rules still do not define a court for assignment, a felony case shall be assigned to the Circuit Court and a misdemeanor case shall be assigned to Superior Court.

1.50 Added Charges. In the event additional related charges are filed against a defendant after a Court has been assigned, such additional charges shall be filed in the same Court where the case is pending.

LR12 - CR 2.2-Rule 02
REASSIGNMENT AND APPOINTMENT OF SPECIAL JUDGE IN
CRIMINAL CASES, POST-CONVICTION
PROCEEDINGS, INFRACTIONS AND ORDINANCE VIOLATIONS

2.10 As required by Rules 2.2, 12 and 13 of the Indiana Rules of Criminal Procedure and subject to approval by the Indiana Supreme Court, Clinton Circuit and Superior Courts adopt the following local rule concerning the reassignment of cases and also the appointment of special judges.

2.20 Reassignment and Transfer of Cases by Agreement of the Courts. A judge of either court may reassign a case to the judge of the other court for any reason including to balance caseload among the courts, alleviate congestion, avoid a potential conflict of interest, or avoid delay due to a judge's temporary absence, subject to the acceptance by the receiving judge. The judge receiving a request may:

- a. refuse reassignment;
- b. agree to sit as judge in the case for a temporary period;
- c. accept reassignment to the other court by entry of an order directing the clerk to assign a new cause number.

2.30 Appointment of Special Judge. Upon granting of a change of judge, disqualification or recusal of a judge, the case shall be reassigned to the other court, and the judge of the other court shall accept reassignment unless disqualified or ineligible for service in which case a special judge shall be selected on a rotating basis from an alternate appointment list maintained by each Court that shall include:

- a. Judge of the Boone Circuit Court,
- b. Judge of the Boone Superior Court No. 1;
- c. Judge of the Boone Superior Court No. 2;
- d. Judge of the Carroll Circuit Court;
- e. Judge of the Carroll Superior Court; and
- f. Judge of the Tipton Circuit Court.

2.40 Appointment by Indiana Supreme Court. In the event no judge is available for assignment or reassignment of a criminal case, such case shall be certified to the Indiana Supreme Court for appointment of a special judge. In the event the presiding judge in a criminal case concludes that the unique circumstances presented in such proceeding require appointment of a special judge, the presiding judge may request that the Indiana Supreme Court make such an appointment.

LR12 – TR76 – RULE 03
COORDINATED LOCAL RULE ON
SELECTION OF SPECIAL JUDGES IN CIVIL CASES

3.10 Pursuant to Trial Rule 79(H) of the Indiana Rules of Trial Procedure, the Circuit and Superior Courts of Clinton County, in conjunction with the other Courts of Administrative District 12 (Boone County, Hamilton County, and Tipton County, Indiana), have adopted the following rule to establish procedures for the selection of special judges in civil cases:

3.20 This rule shall be subject to any previous standing orders of the Supreme Court of Indiana for the appointment of judges which may be in effect or which may become effective subsequent to the entry of this rule. Such standing orders shall preempt this rule and shall take precedence over it.

3.30 Pursuant to Trial Rule 79(D), parties to a civil action may agree (with concurrence of the judge selected) to any particular special judge.

3.40 In the absence of an agreement as to a particular special judge, the parties, pursuant to Trial Rule 79(E), may consent to have the regular sitting judge appoint a special judge from a list of local judges, magistrates, or senior judges.

3.50 In the event a special judge is not selected as provided in the paragraphs above, and excepting where the judge has disqualified and recused himself or herself under Trial Rule 79(C) the judge before whom the case is pending shall submit a panel of three eligible persons to the parties for striking constituted as set forth below. To avoid an unnecessary application of TR 79(H), the judges of the District agree that a special judge selected from such panels shall accept jurisdiction unless disqualified pursuant to *The Code of Judicial Conduct* or excused from service by the Indiana Supreme Court if:

- a. each member of the panel has agreed to serve prior to being named to the panel;
- b. the case is filed in a Hamilton County court and the panel consists of three sitting judges or magistrates serving within the county;
- c. the case is filed in a Boone County court and the panel consists of the two remaining Boone County judges and one sitting judge serving in either Clinton or Tipton counties who shall be appointed on a rotating basis;
- d. the case is filed in a Clinton County court and the panel consists of the remaining Clinton County judge and two sitting judges serving in either Boone or Tipton counties who shall be appointed to the panel on a rotating basis; or,
- e. the case is filed in the Tipton County Circuit Court and the panel consists of a combination of three judges sitting in Boone, Clinton or Tipton counties who shall be appointed to the panel on a rotating basis.

Where the appointment to a panel under this section is on a rotating basis, it will be the responsibility of the county making the appointment to properly record and rotate appointments to the panel.

3.60 If a special judge is required to be selected under Trial Rule 79(H) then the special judge shall be selected on a rotating basis from the following list:

- a. Judge of the Boone Circuit Court
- b. Judge of the Clinton Circuit Court
- c. Judge of the Hamilton Circuit Court
- d. Judge of the Tipton Circuit Court
- e. Judge of the Boone Superior Court No. 1
- f. Judge of the Boone Superior Court No. 2
- g. Judge of the Clinton Superior Court No. 1
- h. Judge of the Hamilton Superior Court No. 1
- i. Judge of the Hamilton Superior Court No. 2
- j. Judge of the Hamilton Superior Court No. 3
- k. Judge of the Hamilton Superior Court No. 4
- l. Judge of the Hamilton Superior Court No. 5
- m. Judge of the Hamilton Superior Court No. 6

3.70 A special judge selected under 3.60 must accept jurisdiction unless disqualified pursuant to *The Code of Judicial Conduct* or excused from service by the Indiana Supreme Court but shall not be eligible to be named again as a special judge under 3.60 until every person on the list has served. The Administrator of Courts for Hamilton County shall maintain a copy of the above list and shall be notified each time a judge is selected from it. The Administrator of Courts shall be responsible to keep the list updated with those who have served, and to be able to provide on request the name of the next judicial officer on the list.

3.80 In the event that no judicial officer within Administrative District 12 is eligible to serve as special judge or the particular circumstance of the case warrants selection of a special judge by the Indiana Supreme Court, the judge of the Court in which the case is pending shall certify the matter to the Indiana Supreme Court for appointment of a special judge.

LR12-TR79-RULE 04

SELECTION OF SPECIAL JUDGE IN SMALL CLAIMS, PROTECTION ORDER AND JUVENILE CASES

4.10 For the orderly and prompt administration of small claims cases and protection orders, these rules shall govern in the event that a judge orders a change of judge or disqualifies.

4.20 In the event that the judge of a small claims case or a protection order case or a juvenile case orders a change of judge or disqualifies, and no special judge agreement is submitted, a special judge will be selected by the clerk by random selection among a panel to include the other judge and all senior judges of the court who are available and willing to hear the case within thirty (30) days.

4.30 In the event that no judge is available under LR12-AR76-Rule 4.20, selection of a special judge shall be accomplished by application of LR12-AR76-Rule03 for civil cases and by application of LR12-CR2.2-Rule2.30 for juvenile cases, omitting from the list any judge that does not regularly have jurisdiction over juvenile cases.

LR12-AR15-RULE 07

COURT REPORTER SERVICES

7.10 General Provisions. The undersigned courts comprise all of the courts of record of Clinton County, Indiana and hereby adopt the following local rule by which court reporter services shall be governed.

7.20 Definitions. The following definitions shall apply under this local rule:

a. *A Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

b. *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

c. *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

d. *Page* means that page unit of transcript which results when a recording is transcribed in the form required by Indiana a Rule of Appellate Procedure 7.2.

e. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

f. *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

g. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

h. *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.

i. *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e., Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

j. *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Clinton County.

k. *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

l. *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

m. *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

7.30 Salaries and Per Page Fees. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. Salary does not include transcription fees. The supervising court shall enter into a written agreement with the court reporters which outline the manner in which the court reporter is to be compensated for gap and overtime hours by monetary pay or compensatory time off. Should court reporters work over 40 hours in one week on regular Court business, they should be paid time and a half or receive one and one-half times overtime worked. The Council has requested a 32 hour work week.

7.40 The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be as follows:

- a. \$4.00 generally
- b. \$5.00 for transcription of older cases. Older cases are those in which the hearing was held in excess of four (4) years prior to the date the transcription is requested.
- c. \$6.00 for expedited. Expedited transcripts are those which are requested to be completed within five (5) days.

7.50 The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

7.60 The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.00.

7.70 Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

7.80 Private Practice.

If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing a deposition transcript, and the court reporter desires to utilize the court's equipment and work space, and the court agrees to the use of the court equipment for such purpose:

- a. The court reporter shall provide his/her own supplies; and
- b. Court Reporter shall maintain records regarding use.
- c. Work shall be conducted outside of regular working hours if a court reporter

elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript.